

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

Form 1 of 2 Sig. Nexus

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 5, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, Quadrant Homes, NWS-2008-0279-NO.

Name of water being evaluated on this JD form: Wetland AA, S, U, C, D

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: King City: Federal Way

Center coordinates of site (lat/long in degree decimal format): Lat: 47.315 **N**, Long: -122.288 **W**

Universal Transverse Mercator: _____

Name of nearest waterbody: North Lake.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Commencement Bay/Puget Sound.

Name of watershed or Hydrologic Unit Code (HUC): 17110019.

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☒ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List other JDs: Form 2 of 2 Isolated

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: April 14, 2008.

☒ Field Determination. Date(s): March 17, 2008.

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: _____

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☐ Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- ☒ Non-RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- ☒ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- ☐ Impoundments of jurisdictional waters
- ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: _____ linear feet _____ width (ft) and/or _____ acres.

Wetlands: 3.15 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual. and Pick List

Elevation of established OHWM (if known): _____

2. Non-regulated waters/wetlands (check if applicable):³

☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: _____

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: _____.

Summarize rationale supporting determination: _____.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": _____.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both.

If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 2550 square miles

Drainage area: _____ Pick List

Average annual rainfall: 38.95 inches

Average annual snowfall: _____ inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☒ Tributary flows through 5 tributaries before entering TNW.

Project waters are 5-10 river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

Project waters are 2-5 aerial (straight) miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: _____.

Identify flow route to TNW⁵: Wetland U is adjacent to and flows into the roadside ditch along South 320th Street. The roadside ditch then flows 640 feet into Wetland D. Water from wetland C flows into wetland D. Wetland D is piped under South 320th Street into a subdivision. At the south side of the subdivision, the drainage daylights into an open channel and/or makes its way through an undefined flow path into forested wetlands abutting North Lake, a relatively permanent water. North Lake is 0.5 miles south of project site. Wetland AA flows into wetland S. Wetland S flows through a culvert under South 320th Street into an off-site wetland. The off-site wetland flows approximately 0.5 miles through a system of pipes, culverts and defined channels into a large forested wetland abutting North Lake, a relatively permanent water. North Lake then flows 0.3 miles into Weyerhaeuser Pond which discharges into East Hylebos Creek. Hylebos Creek flows 0.45 miles into Commencement Bay, Puget Sound, a designated Section 10 navigable water.

Tributary stream order, if known: _____.

(b) General Tributary Characteristics (check all that apply):

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary is: ☒ Natural
☒ Artificial (man-made). Explain: _____.
☒ Manipulated (man-altered). Explain: The wetlands flow through pipes and culverts from South 320th to the forested wetland abutting North Lake.

Tributary properties with respect to top of bank (estimate):

Average width: Tributary is piped and then undefined through forested wetland at north end of North Lake feet

Average depth: Tributary is piped and then undefined through forested wetland at north end of North Lake feet

Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Silts | <input checked="" type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input checked="" type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input checked="" type="checkbox"/> Vegetation. Type/% cover: _____ | |
| <input checked="" type="checkbox"/> Other. Explain: <u>Flows are piped or culverted under 320th.</u> | | |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Flows are piped and then undefined through wetland areas.

Presence of run/riffle/pool complexes. Explain: None.

Tributary geometry: **Meandering**

Tributary gradient (approximate average slope): 0 %

(c) Flow:

Tributary provides for: **Ephemeral flow**

Estimate average number of flow events in review area/year: **6-10**

Describe flow regime: _____.

Other information on duration and volume: _____.

Surface flow is: **Pick List.** Characteristics: confined in pipes, overland flow through wetlands, confined channels.

Subsurface flow: **Unknown.** Explain findings: _____.

☐ Dye (or other) test performed: _____.

Tributary has (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Bed and banks | |
| <input type="checkbox"/> OHWM ⁶ (check all indicators that apply): | |
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> shelving | <input type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): _____ | |

☒ Discontinuous OHWM.⁷ Explain: Water exits the eastern side of site from Wetland D, flows through pipes under South 320th Street and then is undefined flows through forested wetland area at North Lake. Water exits the western side of site, flows through off-site wetland, under South 320th Street, through a system of pipes, culverts, and defined channels, until it is discharged as undefined flow through forested wetland area at North Lake.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- | | |
|--|--|
| <input checked="" type="checkbox"/> High Tide Line indicated by: | <input type="checkbox"/> Mean High Water Mark indicated by: |
| <input type="checkbox"/> oil or scum line along shore objects | <input type="checkbox"/> survey to available datum; |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings; |
| <input type="checkbox"/> physical markings/characteristics | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges | |
| <input type="checkbox"/> other (list): _____ | |

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: Water quality is generally good. Tributary conveys water from natural sources and runoff from residential lands and roads.

Identify specific pollutants, if known: Fecal plus general road runoff including oil.

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- ☒ Riparian corridor. Characteristics (type, average width): ____.
- ☒ Wetland fringe. Characteristics: ____.
- ☐ Habitat for:
- ☐ Federally Listed species. Explain findings: ____.
- ☐ Fish/spawn areas. Explain findings: ____.
- ☐ Other environmentally-sensitive species. Explain findings: ____.
- ☐ Aquatic/wildlife diversity. Explain findings: ____.

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: Wetland AA - 0.13 acres; Wetland S - 0.03 acres; Wetland U - 0.18 acres; Wetland C - 0.11; Wetland D - 2.7 acres

Wetland type. Explain: Wetland AA - Palustrine scrub-scrub; Wetland S - Palustrine scrub-scrub; Wetland U - Palustrine emergent; Wetland C - Palustrine, forested scrub-scrub; Wetland D - Palustrine forested scrub-scrub.

Wetland quality. Explain: Wetland AA - Category III; Wetland S - Category III; Wetland U - Category III; Wetland C - Category II; Wetland D - Category II.

Project wetlands cross or serve as state boundaries. Explain: No.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: ____.

Surface flow is: **Discrete and confined**

Characteristics: Water flows from wetlands through pipes and well defined ditch channels.

Subsurface flow: **Unknown**. Explain findings: ____.

☐ Dye (or other) test performed: ____.

(c) Wetland Adjacency Determination with Non-TNW:

- ☒ Directly abutting
- ☒ Not directly abutting
- ☒ Discrete wetland hydrologic connection. Explain: connected via pipes.
- ☐ Ecological connection. Explain: ____.
- ☐ Separated by berm/barrier. Explain: ____.

(d) Proximity (Relationship) to TNW

Project wetlands are **5-10** river miles from TNW.

Project waters are **2-5** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Water flowing from wetlands into roadside ditch is generally clear. Watershed has been extensively developed for residential and commercial uses, downstream waters of North Lake are on the WA State 303 (d) list for fecal.

Identify specific pollutants, if known: None known.

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

- ☒ Riparian buffer. Characteristics (type, average width): ____.
- ☒ Vegetation type/percent cover. Explain: ____.
- ☐ Habitat for:
- ☐ Federally Listed species. Explain findings: ____.
- ☐ Fish/spawn areas. Explain findings: ____.
- ☐ Other environmentally-sensitive species. Explain findings: ____.
- ☐ Aquatic/wildlife diversity. Explain findings: ____.

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **5**

Approximately (8.7) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

| <u>Wetland</u> | <u>Directly abuts? (Y/N)</u> | <u>Size (in acres)</u> |
|----------------|------------------------------|------------------------|
| AA | Y | 0.13 |
| S | Y | 0.03 |
| U | N | 0.18 |
| C | N | 0.11 |
| D | Y | 2.7 |
| Z | Y | 5.5 |

Summarize overall biological, chemical and physical functions being performed: See section C.

C. SIGNIFICANT NEXUS DETERMINATION

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: ____.
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: ____.
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Subject wetlands have a significant nexus to downstream TNW. The relevant reach includes subject wetland downstream to North Lake and Commencement Bay. The roadside ditch, a non-relatively permanent water, flows 1200 feet along South 320th Street, which then flows under South 320th Street into a piped undefined and channelized stream, which flows into the forested wetland complex on the north side of North Lake. North Lake is 0.5 miles from the project site. North Lake flows 0.3 miles into Weyerhaeuser Pond which discharges into East Hylebos Creek. Hylebos Creek flows 0.45 miles into Commencement Bay, Puget Sound, a designated traditional navigable water. The watershed has been extensively developed for residential and commercial uses. North Lake is on Washington State 303 (d) list for fecal coliform and Commencement Bay is on Washington State 303 (d) list for pH, dissolved oxygen, temperature, and various chemical pollutants. Wetlands in the reach contribute or have the potential to contribute cooler (and better oxygenated) water during the spring, summer, and early fall to Commencement Bay. Fish species listed under the Endangered Species Act utilize the waters of Commencement Bay, Puget Sound, and the tributaries flowing into it. The wetlands create and transfer organic carbon which support the downstream food web of the TNW. Wetlands improve downstream water quality in traditional navigable waters through sediment and toxin interception. The lengthy vegetated tributary/wetland complexes have the capacity to capture pollutants (residential and commercial run-off) to reduce the amount of pollutants, sediments of flood waters from reaching the TNW. Wetlands attenuate downstream flooding by reducing the peak flow in the watershed during major storm events and attenuate erosion by detaining high flows during storms and reducing the duration of erosive flows, thus decreasing downstream erosion in streams.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
☐ TNWs: ____ linear feet ____ width (ft), or ____ acres.
☐ Wetlands adjacent to TNWs: ____ acres.
2. **RPWs that flow directly or indirectly into TNWs.**
☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide rationale indicating that tributary flows perennial: ____.
☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: ____.

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: ____ linear feet ____ width (ft).
☐ Other non-wetland waters: ____ acres.
Identify type(s) of waters: ____.
3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**
☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

⁸See Footnote # 3.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- ☐ Tributary waters: _____ linear feet _____ width (ft).
☐ Other non-wetland waters: _____ acres.

Identify type(s) of waters: _____.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: _____
☐ Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: _____

Provide acreage estimates for jurisdictional wetlands in the review area: _____ acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: _____ acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- ☒ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: **3.15** acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- ☐ Demonstrate that impoundment was created from “waters of the U.S.,” or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: _____.
☐ Other factors. Explain: _____.

Identify water body and summarize rationale supporting determination: _____

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: _____ linear feet _____ width (ft).
☐ Other non-wetland waters: _____ acres.

Identify type(s) of waters: _____.

- ☐ Wetlands: _____ acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: ____.
- ☐ Other: (explain, if not covered above): ____.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): ____ linear feet ____ width (ft).
- ☐ Lakes/ponds: ____ acres.
- ☐ Other non-wetland waters: ____ acres. List type of aquatic resource: ____.
- ☐ Wetlands: ____ acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): ____ linear feet ____ width (ft).
- ☐ Lakes/ponds: ____ acres.
- ☐ Other non-wetland waters: ____ acres. List type of aquatic resource: ____.
- ☐ Wetlands: ____ acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: ____.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☒ Office concurs with data sheets/delineation report.
- ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: ____.
- ☒ Corps navigable waters' study: The waterbody is on the Section 10 Navigable Waterway List for Seattle District. The list is available at www.nws.usace.army.mil click on Regulatory – Regulatory/Permits – Wetlands and Waters of the US – Navigable Waters.
- ☐ U.S. Geological Survey Hydrologic Atlas: ____.
- ☐ USGS NHD data.
- ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: ____
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: ____.
- ☒ National wetlands inventory map(s). Cite name: ____.
- ☐ State/Local wetland inventory map(s): ____
- ☐ FEMA/FIRM maps: ____.
- ☐ 100-year Floodplain Elevation is: ____ (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): ____
or ☐ Other (Name & Date): ____.
- ☐ Previous determination(s). File no. and date of response letter: ____.
- ☐ Applicable/supporting case law: ____.
- ☐ Applicable/supporting scientific literature: ____.
- ☐ Other information (please specify): ____.

B. ADDITIONAL COMMENTS TO SUPPORT JD: ____.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

Form 2 or 2 Isolated

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 5, 2008.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, Quadrant Homes, NWS-2008-0279-NO.

Name of water being evaluated on this JD form: Wetland A

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: King City: Federal Way

Center coordinates of site (lat/long in degree decimal format): Lat: 47.315 **N**, Long: -122.288 **W**

Universal Transverse Mercator: _____

Name of nearest waterbody: North Lake.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Commencement Bay/Puget Sound.

Name of watershed or Hydrologic Unit Code (HUC): 17110019.

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☒ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List other JDs: Form 1 of 2 Sig Nexus

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☒ Office (Desk) Determination. Date: April 14, 2008.

☒ Field Determination. Date(s): March 17, 2008.

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A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: _____

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- ☐ TNWs, including territorial seas
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b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: _____ linear feet _____ width (ft) and/or _____ acres.

Wetlands: _____ acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List and **Pick List****

Elevation of established OHWM (if known): _____

2. Non-regulated waters/wetlands (check if applicable):³

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Wetland A is 462 square feet in size. The wetland is located immediately to the east of the remains of a former home foundation, and was established as a result of the previously unrestricted drainage being blocked by the concrete foundation. The hydrology is supported by direct precipitation and the impoundment of surface runoff from the**

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

adjacent foundation. The entire wetland perimeter was walked. This wetland is hydrologically isolated from the other wetlands on the subject property with no interstate commerce connection. The public cannot easily access this wetland because it requires trekking through dense vegetation on private property.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: NOT APPLICABLE

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS: NOT APPLICABLE

C. SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE: NOT APPLICABLE

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):⁴

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain: _____.
- ☐ Other factors. Explain: _____.

Identify water body and summarize rationale supporting determination: _____

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: _____ linear feet _____ width (ft).
- ☐ Other non-wetland waters: _____ acres.
Identify type(s) of waters: _____.
- ☐ Wetlands: _____ acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - ☒ Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Other: (explain, if not covered above): _____.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____ linear feet _____ width (ft).
- ☐ Lakes/ponds: _____ acres.
- ☐ Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
- ☒ Wetlands: 0.01 acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: _____.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☒ Office concurs with data sheets/delineation report.
 - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: _____.
- ☐ Corps navigable waters' study: _____.

⁴ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- ☐ U.S. Geological Survey Hydrologic Atlas: ____.
- ☐ USGS NHD data.
- ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: ____
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: ____.
- ☒ National wetlands inventory map(s). Cite name: ____.
- ☐ State/Local wetland inventory map(s): ____
- ☐ FEMA/FIRM maps: ____.
- ☐ 100-year Floodplain Elevation is: ____ (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): ____
or ☐ Other (Name & Date): ____.
- ☐ Previous determination(s). File no. and date of response letter: ____.
- ☐ Applicable/supporting case law: ____.
- ☐ Applicable/supporting scientific literature: ____.
- ☐ Other information (please specify): ____.

B. ADDITIONAL COMMENTS TO SUPPORT JD: ____.